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6 Hon. John C. Coughenour
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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 WENDY JENDRYSIK,
10 Plaintiff,

11 v.
12 RECEIVABLES PERFORMANCE
MANAGEMENT, LLC

13 Defendant.

14
15 Case No. 2:13-cv-00559

16
17 DECLARATION OF ANDREW D.
SHAFER IN OPPOSITION TO
MOTION TO DEEM FACTS
ADMITTED

18 I, Andrew D. Shafer, under penalty of perjury pursuant to 28 U.S.C. §1746 as follows:

19 1. I am an attorney licensed to practice law in Washington State and before this
20 court. I base this declaration on my personal knowledge.

21 2. As RPM's registered agent, I was served with the summons and complaint in
22 this case on April 10, 2013. I appeared the next day and answered the complaint on April 30,
23 2013, before Plaintiff had filed and served her Amended Complaint.¹

24 3. As I read Fed.R.Civ.P 15(a), Plaintiff's attempt to amend her complaint came
25 too late. She did not file it within 21 days of serving the complaint. The Complaint was

¹ The Answer is Dkt # 9; The Amended Complaint is Dkt # 12.
25 DECLARATION OF ANDREW D. SHAFER
IN OPPOSITION TO PLAINTIFF'S
Fed.R.Civ.P 8(b) MOTION – 1
[CASE NO. 2:13-cv-00559]

1 served on April 10. She filed the Amended Complaint on May 21. Fed.R.Civ.P 15(a)(1)(B)
2 only allows the Amended Complaint to be filed without leave of court within 21 days after the
3 filing of a pleading to which a responsive pleading is required. Here, Plaintiff was not
4 required to file a response to RPM's Answer.

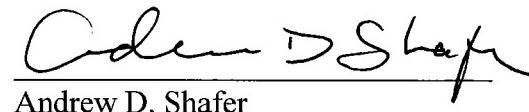
5 4. Because I did not believe that Plaintiff had the right to file her Amended
6 Complaint without either RPM's consent or leave of court, RPM did not respond to the
7 pleading within 21 days.

8 5. On Friday, August 2, Plaintiff served her first discovery. At that time, I again
9 took a look at the Amended Complaint and decided to prepare an answer that date. At 12:26
10 pm on Friday, August 2, I sent an email to Mark Case, RPM's general counsel, with a draft
11 Answer to the Amended Complaint. A redacted copy of that E-mail is attached as Exhibit 1 to
12 this declaration.

13 6. I did not lodge the Amended Answer and Affirmative Defenses on Friday
14 because I did not receive Mr. Case's authorization to do so by the time I left the office that
15 day. RPM filed the Answer and Affirmative Defenses to the Amended Complaint on
16 Monday, August 5, approximately 1-1/2 hours after we received the subject motion.
17

18 I declare under penalty of perjury that the foregoing is true and correct.
19

20 Executed on August 6, 2013 at Seattle, Washington.
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22 
23 Andrew D. Shafer
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25 DECLARATION OF ANDREW D. SHAFER
IN OPPOSITION TO PLAINTIFF'S
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